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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Application by BellSouth Corp. et al.	)	CC Docket No. 97-231
for Provision of In-Region,	)	
InterLATA Services in Louisiana	)	

OPPOSITION OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

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SUMMARY

With its application for interLATA authority in South Carolina pending before the Commission, BellSouth has submitted a second application seeking authority to provide interLATA services in Louisiana. As with the pending South Carolina application, BellSouth's current application should be denied.

First, in much of its substance, BellSouth's application is identical to the showing it provided in the South Carolina proceeding. Therefore, if the Commission concludes that BellSouth has not complied with Section 271's competitive checklist in South Carolina (which CompTel submits is the only conclusion supported by the record in that proceeding), then the Commission must also deny BellSouth's Louisiana application. CompTel will show in these comments (as it has shown in the South Carolina proceeding) that BellSouth does not satisfy the competitive checklist because it is not providing nondiscriminatory access to unbundled network elements ("UNEs"). Having chosen not to provide UNEs in logical combinations, BellSouth is obligated under the Act, the FCC's rules and the Eighth Circuit's decision to provide CLECs with both the ability to combine UNEs and with nondiscriminatory access to the network for such purposes. However, BellSouth forces CLECs either to accept those network elements that can be delivered to a collocation cage (and incur the substantial costs of physically separating the elements and establishing collocation arrangements in each BellSouth end office) or rely on BellSouth's undefined and ultimately empty pledge to negotiate a "glue charge" for BellSouth to recombine the elements. These "offers" are insufficient to ensure that UNEs can be combined "in any manner" by a CLEC in order to compete in the local exchange market. Unless and until BellSouth takes affirmative steps to open its network to competition through the exclusive use of UNEs, the pace of local

competition will be hindered -- particularly in the broad-based residential market -- and consumers will continue to be denied the benefits promised by the 1996 Act.

The only novel question presented by the Louisiana application is whether BellSouth has satisfied the requirements of Section 271(c)(1)(A) -- "Track A" -- based on the alleged operations of facilities-based PCS providers in Louisiana. If the Commission were to reach this question, CompTel submits that mobile services, regardless of their technology, do not qualify as "telephone exchange service . . . to business and residential subscribers" unless and until such services are used as a substitute for wireline local exchange services. This conclusion is evidenced by Section 271's exclusion of cellular services from Track A consideration and also by Section 332's preemption of state regulatory authority over CMRS providers (including PCS) except where CMRS is a substitute for local service for a "substantial portion" of the state. In each case, the mobile characteristic of wireless services (including PCS) satisfies different customer needs and is priced to reflect such differences. PCS service therefore is not evidence of an actual, viable competitive alternative to the BOC's local monopoly, as is contemplated by Section 271(c)(1)(A).

TABLE OF CONTENTS

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OPPOSITION OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits the following opposition to the application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. (collectively, "BellSouth") for authority to provide in-region, interLATA services in Louisiana.[1/]

The Commission should deny BellSouth's application for two reasons. First and foremost, BellSouth has not satisfied the competitive checklist. Substantively, this application mirrors the competitive checklist showing BellSouth made in its pending application for in-region authority in South Carolina.[2/] As CompTel demonstrated in that proceeding, and as is demonstrated below, although the 1996 Act gives new entrants the right to provide service exclusively through the use of BellSouth's unbundled network elements ("UNEs"), BellSouth consistently has sought to block such entry and has failed to

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[1/] CompTel is a national industry association representing competitive providers of telecommunications services. Its over 200 members offer a wide variety of telecommunications services in markets which have been opened to competition. CompTel and its members are committed to the goal of expanding consumer choice in the local exchange and exchange access markets, where competitive alternatives do not exist today. CompTel was intimately involved in the legislative debates culminating in the Act and has participated extensively in implementation proceedings before the FCC and state PUCs.

[2/] Application by BellSouth Corp., *et al.* for Provision of In-Region, InterLATA Services in South Carolina, CC Docket No. 97-208 (filed September 30, 1997).

demonstrate that it provides CLECs the ability to combine UNEs themselves and the non-discriminatory access sufficient to do so.

Second, BellSouth has not satisfied the requirements of "Track A."[3/] BellSouth contends that it satisfies the requirements of Section 271(c)(1)(A) based on the alleged operations of facilities-based PCS providers. If the Commission were to reach this question (which it need not, given that BellSouth's failure to comply with the competitive checklist is dispositive of the application), CompTel submits that mobile services, regardless of their technology, do not qualify as "telephone exchange service . . . to business and residential subscribers" unless and until such services are used as a substitute for wireline local exchange services. This conclusion is evidenced by Section 271's exclusion of cellular services from Track A consideration and also by Section 332's preemption of state regulatory authority over CMRS providers except where CMRS is a substitute for local service for a "substantial portion" of the state. In each case, the mobile characteristic of wireless services (including PCS) satisfies different customer needs and is priced to reflect such differences. PCS service therefore is not evidence of an actual, viable competitive alternative to the BOC's local monopoly, as is contemplated by Section 271(c)(1)(A).

I. INTRODUCTION

The goal of Section 271's in-region entry requirements is to ensure that the local exchange market is irreversibly opened to competition *before* authorizing a BOC to provide

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[3/] 47 U.S.C. § 271(c)(1)(A).

in-region interLATA services.[4/] This explicit requirement embodied in Section 271 makes sound public policy. Upon authorization to provide in-region interLATA services, the BOCs will be able to draw upon well-established wholesale and retail service and support processes to easily add interLATA services to complement their existing local exchange services. For other potential "one stop shopping" competitors, however, an equivalent ability to add local exchange services *does not* exist. No provider today can add local exchange services and switch new local exchange customers as quickly and easily as the BOCs will be able to do in the interLATA market. This is when Section 271 comes into play. Section 271 furthers Congress' goal of competition in all markets because it provides the BOCs with an incentive to cooperate in the development of local exchange competition so that they may receive the interLATA authorization they seek. Until BellSouth *creates* equivalent entry and support opportunities for local services, it cannot receive interLATA authorization pursuant to Section 271.

Despite Section 271's incentives, BellSouth has in fact done everything it can to deny entry through the very method that promises immediate and broad scale local competition -- use of BellSouth's ubiquitous local network to create new competing telecommunications services. A CLEC's ability to obtain UNEs and use them in logical combinations with each other is integral to achieving Congress' objective of promoting competition in the local telecommunications market. *Ameritech Michigan Order* at ¶ 332. It will enable competing

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[4/] *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, FCC 97-298, ¶¶ 14, 17-18 (rel. August 19, 1997) (hereinafter *Ameritech Michigan Order*).

carriers to function as LECs in all respects by configuring their own retail products, managing their networks, and providing a full range of retail and carrier services (including originating and terminating access services). This form of entry is particularly critical to the development of competition for residential and small business customers, where construction of duplicative network facilities is practically and economically infeasible. Indeed, for many CompTel members, the viability of *any* initial entry into the local exchange market will depend upon the ease with which they can obtain and combine UNEs purchased from an ILEC.

Thus, it is critical that the Commission ensure as part of the Section 271 process that CLECs have both the ability to combine UNEs with each other and that a BOC provide nondiscriminatory access to the network so that CLECs may accomplish these combinations. In the wake of the Eighth Circuit's decision in *Iowa Utilities Board*,[5/] the Commission must redouble its efforts to ensure that this integral component of local competition remains a viable option. CompTel believes that the Commission must carefully scrutinize the adequacy of the access an ILEC provides to its network elements, to ensure that CLECs can combine them as quickly and efficiently as the ILEC does to provide its own local exchange services. Without such access, the progress and scope of competition will be hindered, to the ultimate detriment of consumers nationwide.[6/]

[5/] *Iowa Utilities Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997).

[6/] In addition, CompTel submits that in appropriate circumstances the Commission can and must define logically related network facilities and functionalities as both a single network element and as separable network elements.

II. BELLSOUTH IS NOT PROVIDING ACCESS TO UNBUNDLED NETWORK ELEMENTS IN ACCORDANCE WITH THE COMPETITIVE CHECKLIST

In the aftermath of the Eighth Circuit's ruling and recent clarification, BellSouth has two choices concerning combinations of UNEs: it can either provide CLECs with combinations of UNEs *or* it can provide CLECs with both the ability and the access to enable CLECs to combine UNEs themselves. Having refused to provide network elements in their existing logical and functional combinations, BellSouth is obligated to identify how CLECs will be able to combine elements, and under what terms and conditions.[7/]

However, BellSouth has utterly failed to answer these questions in its application. It has not made any effort to demonstrate that CLECs actually have the ability to combine UNEs, as the Act and the Commission's rules clearly require. It also has failed to describe the access it will provide, much less demonstrate that it provides *nondiscriminatory* access to the network for purposes of combining UNEs. BellSouth's complete failure to submit adequate information regarding CLEC combinations of UNEs amounts to asking the Commission to make a leap of faith on issues that are integral to effective competition in local exchange markets. This the Commission cannot and should not do.

[7/] By focusing on BellSouth's failure to provide nondiscriminatory access to UNEs, CompTel does not mean to suggest that the application meets the remainder of Section 271's requirements. For example, CompTel agrees that BellSouth's OSS systems do not meet the Act's requirements, and that BellSouth has not satisfied the pricing standard of Section 271(d). CompTel expects these issues will be fully briefed by other parties to this proceeding, and does not wish to burden the Commission with repetitive filings. CompTel may address these and other BellSouth shortcomings in its reply comments if the record requires additional discussion on these points.

A. BellSouth Has Not Demonstrated That it Provides CLECs With the Ability To Combine UNEs

The 1996 Act permits CLECs to purchase UNEs and combine them "in any manner" to provide a telecommunications service. 47 U.S.C. § 251(c)(3).[8/] Requesting carriers are permitted, but not required, to use UNEs in combination with self-provided facilities. Critically, the Eighth Circuit upheld the Commission's interpretation that under the Act, a competing carrier "may obtain the ability to provide telecommunications services *entirely* through an incumbent LEC's unbundled elements." *Iowa Utilities Board*, 120 F.3d at 814; *see Interconnection Order*,[9/] ¶¶ 328-41. That is, regardless of which entity does the combining, UNEs must be capable of being combined with each other, *without* the interposition of third-party equipment in the process.

While BellSouth states that CLECs may combine UNEs as they see fit, it offers only the following ambiguous discussion in its SGAT, which states:

[8/] In light of the Eighth Circuit's decision and recent clarification order, the Commission also should reexamine its list of the minimum network elements that an ILEC must provide. The Court's decision upheld the Commission's ability to define network elements as well as its definition of a network element in a way that "encompasses a broad range of telecommunications technology and devices." *Iowa Utilities Board*, 120 F.3d at 808-10. The Commission now should consider defining additional logically related network facilities as a single element. For example, the loop is a network element, but the Commission concluded that sub-loop elements that comprise it could also be separate elements. The same analysis can hold for several other network facilities and functionalities, such as the loop/port/switching path. By providing CLECs with the option to obtain network elements at different levels of aggregation, the Commission will promote flexibility in use of UNEs, and will further the goal of encouraging competitive entry in the residential market.

[9/] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 (1996), *aff'd in part and vacated in part sub nom, Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997).

> Combining Network Elements. A requesting carrier is entitled to gain access to all of the unbundled elements that when combined by the requesting carrier are sufficient to enable the requesting carrier to provide telecommunication service. Requesting carriers will combine the unbundled network elements themselves.[10/]

Significantly, this language is the *entire text* of BellSouth's description of the manner in which CLECs will be allowed to combine requested UNEs. BellSouth's supporting affidavits do not help illuminate the issue, either. In the affidavit of Alphonso Varner, Mr. Varner paraphrases the South Carolina SGAT's pledge to "physically deliver" UNEs to "where reasonably possible," but on the question of how CLECs will be able to combine UNEs, offers only that "requesting carriers will combine the unbundled network elements themselves." Varner Aff. ¶¶ 64-65 (BellSouth Louisiana Application, Appendix A, Tab 14).

This bare bones description raises many more questions than it answers and highlights how little BellSouth has done to ensure CLECs are able to combine UNEs. It clearly does not meet the Commission's requirement that a BOC demonstrate it has a "concrete and specific" obligation to provide UNEs and demonstrate that it is operationally ready to provide such elements. *Ameritech Michigan Order*, ¶ 110.

1. Terms and Conditions

As with its South Carolina application, BellSouth provides no information as to what UNEs will be provided so that they can be combined with others, the manner in which such combinations can be accomplished, or the terms and conditions on which combination-ready

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[10/] BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions, at II.F. (Varner Ex. AJV-1).

UNEs will be offered.[11/] For example, BellSouth does not even describe which elements will be "physically delivered" to the CLEC's collocation space. Although it commits to providing such delivery at no additional charge "where reasonably possible," it does not even begin to address when that will be possible. For those (unspecified) elements that cannot be delivered to a collocation space, BellSouth does not even commit to providing CLECs with the ability to combine the element with another. Instead it offers a wholly undefined -- and completely nonbinding -- "offer" to negotiate additional terms.

Moreover, it appears that BellSouth will *not* permit CLECs to combine all of the necessary UNEs in a single service offering. At the same time, Mr. Varner is asserting that CLECs may combine UNEs "in any manner," he states that orders to obtain all of the UNEs currently used by a customer will be treated as *resale* orders, not as UNE combinations. Varner Aff. ¶ 68. All of BellSouth's examples of CLEC-combined UNEs require a requesting carrier to negotiate collocation arrangements with BellSouth and to provide additional equipment and/or cross connections. *See*, e.g. Varner Aff. ¶ 66; Milner Aff. ¶ 25 (BellSouth Louisiana App., Appendix A, Tab 9). If BellSouth will permit CLECs to provide service *solely* through the use of BellSouth's UNEs -- as the Act requires -- it has not specified how or on what terms CLECs will be permitted to do so.

CompTel submits that gamesmanship of this nature should not be tolerated. The Commission should order BellSouth to state, clearly and precisely, how it will deliver UNEs so that CLECs can combine them and to identify *all* of the terms and conditions associated

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[11/] DOJ South Carolina Evaluation at 20-23, CC Docket No. 97-208 (filed November 4, 1997).

with combinations of UNEs. In addition, BellSouth should be required to demonstrate that, once separated, UNEs can be combined with each other, *without* additional CLEC equipment, and will work properly when so combined. Unless and until BellSouth provides this information, the Commission should not entertain the application any further.

2. Operational Capability

Even if one were to assume that BellSouth will deliver UNEs and one took it on faith that BellSouth's terms and conditions were reasonable (which one manifestly cannot do on the basis of this application), BellSouth also has not demonstrated that it has internal procedures to provide UNEs in a manner that permits their combination. That is, *whatever* method BellSouth may be employing to deliver UNEs ready for combinations -- which is at this point unknown -- BellSouth must show that it will be capable of delivering UNEs in the manner promised. As DOJ stated concerning BellSouth's South Carolina application, "At least some methods of meeting this requirement would appear to require the development and testing of new capabilities."[12/] BellSouth is obligated to identify what these capabilities are, and to put forth sufficient evidence to demonstrate that it has acquired the capabilities and that they work in practice. Until it does so, the Commission cannot conclude that CLECs are able to combine UNEs.

[12/] DOJ South Carolina Evaluation at 23.

B. BellSouth Has Not Demonstrated That it Provides Nondiscriminatory Access So That CLECs may Combine UNEs

As discussed in the preceding section, the Act grants CLECs the right to combine UNEs with each other to provide a telecommunications service. Nondiscriminatory access is the *means* by which a CLEC may exercise that right. In order to be "nondiscriminatory," the access provided must be at parity with the access BellSouth's retail operations receive for purposes of configuring network elements. At a minimum, CompTel believes that parity of access will require two commitments from BellSouth (and BOCs, generally): (1) CLECs must be granted access to all points in the network to combine requested UNEs (and must not be limited by artificial collocation requirements); and (2) the BOCs must use fully-automated systems for the separation and reconfiguration of requested UNEs. BellSouth's present application provides discriminatory access, at best, and generally fails to address access issues in any meaningful way.

1. Supervised Access

CLECs must be provided nondiscriminatory access to all points within BellSouth's network for competitive entry to be a reality. BellSouth customers enjoy the benefit of service personnel who have such access to its network. However, the BellSouth application offers only delivery of UNEs to a CLEC's collocation space. Establishing a collocation space involves huge capital costs and the inherent delays associated with negotiations to secure them.[13/] Such costs and delays can quickly rise to the level of a *de facto* barrier to

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[13/] As DOJ noted, the collocation requirement raises the cost of entry in the local exchange market. DOJ South Carolina Evaluation at 25.

entry. Indeed, where a CLEC needs only *temporary* access in order to connect UNEs it is purchasing, requiring a permanent, physical collocation arrangement is anti-competitive. These costs and delays, however, can be avoided simply by BellSouth offering to CLECs what it reserves for itself -- access to all points in the network.

In response to similar concerns raised in the South Carolina application, BellSouth refused to provide nondiscriminatory, temporary access to its network. Raising a laundry list of potential harms (including vague assertions of harm to "national security"), BellSouth claimed that supervised access threatened "the integrity and reliability of the public switched network." *See* Reply Affidavit of Alphonso Varner, ¶¶ 25-26, CC Docket No. 97-208 (Nov. 14, 1997). Such concerns should be dismissed out of hand. "Integrity of the network" is the traditional last refuge to which a monopolist clings to protect its monopoly. Moreover, the Eighth Circuit already has dismissed such claims of harm. Rejecting the Commission's argument that incumbent LECs would object to CLEC-performed combinations "to prevent the competing carriers from interfering with their networks," the Court concluded that the LECs' claims demonstrated that they "would rather *allow entrants access to their networks* than have to rebundle the unbundled elements for them." *Iowa Utilities Board*, 120 F.3d at 813 (emphasis added). Having successfully persuaded the Eighth Circuit that they will allow access to their networks, ILECs such as BellSouth should not be heard to claim that this access now threatens "network integrity."

Direct (and temporary) access to the network would greatly enhance a CLEC's ability to combine UNEs in the most efficient manner possible, and critically, would be a significant step toward ensuring CLECs can combine elements *in the same manner as BellSouth*. The

question CompTel respectfully submits that the Commission must consider is this: does BellSouth (or any other BOC) provide CLECs with the same level of access that it provides to its own retail operations? Of course, in order to answer a comparative question such as this, the Commission must first determine what access BellSouth provides to itself. Here again, BellSouth has not provided the Commission with the necessary foundation for answering the question at hand.[14/]

2. Automated Systems

Realistic competition also will require that the separation and reconfiguration of UNEs be provided through automated systems except in the most unusual circumstances. Currently, BellSouth can often reconfigure elements used to provide its own service entirely through automated systems. In practical terms, this means that elements can be reconfigured through a few keystrokes rather than sending a technician down into the network to manually rearrange network connections. The efficiency of using such automated systems is obvious. Using such systems, a typical residential customer could be transferred to a CLEC's service in the same way an IXC PIC change is accomplished today. This disparity in treatment makes BellSouth's provisioning of UNEs inherently discriminatory. Unless and until BellSouth provides fully automated systems to separate network elements and then gives CLECs nondiscriminatory access to those systems to combine them, BellSouth's provision of access will be discriminatory.

[14/] The Department of Justice concurred, stating, "BellSouth has not addressed these issues sufficiently, thereby precluding any finding that its offering is sufficient to satisfy this statutory requirement." DOJ South Carolina Evaluation at 22, note 32.

Unfortunately, BellSouth does not offer such access, and has not described any efforts it is making to achieve that goal. If the application were accepted in its current form, potential CLEC customers would be forced to suffer the effects of manual reconfigurations: service disconnections, delays in service provision, and substantially increased costs. All of these, of course, can be avoided by BellSouth providing CLECs with equal access to automated reconfiguration systems. However, because BellSouth has wholly ignored this issue, it has left the Commission with no basis upon which to conclude that BellSouth has complied with the checklist requirement of nondiscriminatory access.

III. THE PRESENCE OF MOBILE PCS PROVIDERS IN LOUISIANA DOES NOT SATISFY TRACK A OF SECTION 271

The crux of BellSouth's argument in support of its Track A application is that three PCS providers in Louisiana provide "telephone exchange service" for purposes of Section 271(c)(1)(A). As BellSouth acknowledges, Section 271(c)(1)(A) expressly excludes services provided by cellular telephone carriers from the definition of "telephone exchange service." (Brief at 10); *See* 47 U.S.C. ¶ 271(c)(1)(A) ("For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations . . . shall not be considered to be telephone exchange services"). However, BellSouth claims that this exclusion, by necessary implication, demonstrates the *inclusion* of PCS carriers, which provide a technically and commercially similar service. (Brief at 11). BellSouth contends that, in the absence of Congress's express exclusion of cellular service, cellular carriers would necessarily have been included within the scope of Section 271(c)(1)(A). Accordingly, BellSouth's argument concludes, Congress's silence regarding PCS carriers

confirms such providers' inclusion and justifies the reliance upon its arrangements with the three PCS providers to demonstrate satisfaction of the requirements of Section 271(c)(1)(A).

BellSouth's self-serving interpretation of Section 271(c)(1)(A)'s requirements is off the mark. As BellSouth admits, the Commission has indeed found that PCS and cellular carriers provide telephone exchange service, but it has done so pursuant to Section 3(47)(B), not Section 3(47)(A).[15/] Accordingly, the Commission has never found that CMRS providers offer telephone exchange service within the definition of Section 3(47)(A) -- the only definition pertinent to Track A.

The fact that the Congress, under Section 271(c)(1)(A), required competitors to meet the definition of 3(47)(A) in particular rather than 3(47) in general strongly suggests that the Commission should be circumspect in ascertaining whether non-wireline LECs fall within Section 3(47)(A). Moreover, the Congress's express exclusion of cellular carriers in the last sentence of Section 271(c)(1)(A) reflects a judgment that mobile services are insufficient to provide the evidence of actual competition Congress sought in the Track A test. Because, as BellSouth admits, cellular and PCS services are technically and commercially indistinguishable, it follows that, if cellular service is not to be considered "telephone exchange service" for purposes of Section 271(c)(1)(A), neither should PCS.

A distinction between mobile applications and local exchange service is supported by Congress' preemption of state jurisdiction pursuant to Section 332 of the Act. In Section 332, Congress preempted state entry and rate regulation of CMRS providers (which includes both cellular and PSC services), but authorized states to seek limited regulatory authority *if*

[15/] *Interconnection Order*, ¶ 1013.

the services are a substitute for land line telephone exchange service for a "substantial portion" of the communications within the state. 47 U.S.C. § 332(c)(3)(A). CMRS services are beyond the states' jurisdiction -- and are not subject to local exchange service regulation -- because they are mobile in character. Even if CMRS sometimes is used to place local calls, Section 332 excludes them from the class of local exchange service.[16/] For similar reasons, mobile services provided through PCS should not be deemed local exchange services to "residential" or "business" subscribers for purposes of Section 271(c)(1)(A).[17/]

While BellSouth contends that Congress would have had no need to exclude cellular service from Track A if cellular did not fall within Section 3(47)(A), that is not the most reasonable interpretation of Section 271(c)(1)(A). Rather, the last sentence of that subsection merely reflects Congress's desire to distinguish existing mobile applications -- which do not compete with local exchange service -- from fixed services which might compete with local exchange service. There is no hint that Congress meant by this clarifying language to thereby force the Commission to include PCS and other CMRS services.

[16/] Even if PCS were not *always* excluded from the Track A analysis (as cellular service is), it at a minimum should not be considered for such purposes if the relevant state does not have jurisdiction to apply local exchange regulations to it. Louisiana has not even sought such jurisdiction over the PCS providers operating in its state.

[17/] Moreover, Track A requires evidence of "telephone exchange service . . . to residential and business subscribers." The distinction between "residential" and "business" services is central to the regulatory treatment of local exchange services, but is not particularly meaningful in the mobile context. Mobile services are designed to satisfy a need for communication while *away* from a pre-determined location, and the same service can meet the needs for either business-related or personal calling. Thus, PCS services are identified under the "residential" or "business" labels commonly used for local exchange services. The fact that Congress included the "residential" and "business" subscriber requirements suggests that it was considering only local exchange applications, not mobile applications of wireless services.

In fact, the non-existent or, at best, very weak basis for finding PCS services to be providers of "telephone exchange service . . . to residential and business subscribers" for purposes of Section 271(c)(1)(A) is underscored by the legislative history. In the one reference to the cellular exclusion, in the House Report, the Representatives stated that cellular service was excluded because the Commission has not determined that cellular is a substitute for local telephone service.[18/] As with cellular service, neither has the Commission determined that PCS is a substitute for local telephone service. Indeed, although Section 332 of the Act explicitly recognizes potential state jurisdiction in these circumstances, no carrier or PUC has successfully applied for and received state authority under Section 332(c)(3) to regulate PCS or cellular service as a substitute for land line telephone exchange service.

In short, apart from innuendo and weak deductions, BellSouth offers no support for concluding that PCS service offered in Louisiana meets the requirements of Section 271(c)(1)(A).

CONCLUSION

For the foregoing reasons, BellSouth's application for authority to provide in-region interLATA services in Louisiana should be denied. BellSouth has not satisfied the competitive checklist requirement that it provide access to unbundled network elements because it fails to show that CLECs will be able to combine UNEs with each other to

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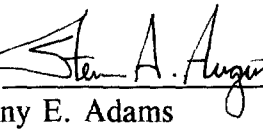
[18/] H.R. Rep. No. 204, 104th Cong. 1st Sess., pt. 1, at 77 (1995), reprinted in 1996 in U.S. Code Cong. and Admin. News 10, 43.

provide a telecommunications service and fails to demonstrate that the access accorded to CLECs is at parity with that provided for BellSouth's own purposes. Further, existing wireless "personal communications services" do not count as facilities-based local exchange service to business and residential customers for purposes of Section 271(c)(1)(A). Accordingly, the Commission should deny the BellSouth application.

Respectfully submitted,

THE COMPETITIVE
TELECOMMUNICATIONS ASSOCIATION

By: 

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